

MEMO ENDORSED

STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ANDREW M. CUOMO
Attorney General

March 11, 2008

LESLIE G. LEACH
Executive Deputy Attorney General
Division of State Counsel

Via Fax (212) 805-6181 & U.S. Mail
Hon. Douglas F. Eaton
United States Magistrate Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

JUNE DUFFY
Assistant Attorney General in Charge
Litigation Bureau

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOCKET #
DATE FILED: 3/11/08

Re: Rosales v Fischer, et. al.
07CV10554(LAP)(DFE)
Pro se

Dear Judge Eaton:

This letter is written on behalf of defendants who are represented by the Office of the Attorney General ("OAG"), respectfully to request until April 18, 2008 to respond to the complaint in this Section 1983 action. Plaintiff is incarcerated in Wende Correctional Facility in Marcy, New York and alleges that the 19 defendants violated his constitutional rights during his incarceration in Green Haven Correctional Facility.

This case was recently assigned to me. Our records reflect that as of this date, 11 defendants have requested representation by the OAG. According to the docket sheet, current answer dates range from February 26, 2008 to March 17, 2008, assuming proper service on those already served. In a Memorandum and Order dated January 14, 2008 (PACER docket entry 4), the Court gave plaintiff until March 25, 2008 to complete service upon each defendant. The extension of time is being requested to enable counsel to obtain from the New York State Department of Correctional Services ("DOCS") documents relevant to the multiple claims in this action and interpose a single response on behalf of the defendants who have been served in accordance with your Honor's order and represented by the OAG as of April 18th.

→ 3/11/08 - I grant this request. In the future, whenever Mr. Rosales writes to me, he must include a signed certificate or that he has mailed a copy to Donald Nowre, Esq., Office of the Attorney General, 120 Broadway, New York, NY 10271-0332. *Douglas F. Eaton*

120 Broadway, New York, N.Y. 10271-0332 • Phone (212) 416-8610 • Fax (212) 416-8075 • Not For Service of Papers
<http://www.oag.state.ny.us>

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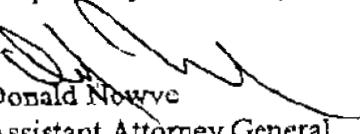
Hon. Douglas F. Eaton
United States Magistrate Judge

March 11, 2008

Page Two

No previous requests have been made for such an extension. I did not obtain plaintiff's consent prior to making this application because he is incarcerated.

Respectfully submitted,

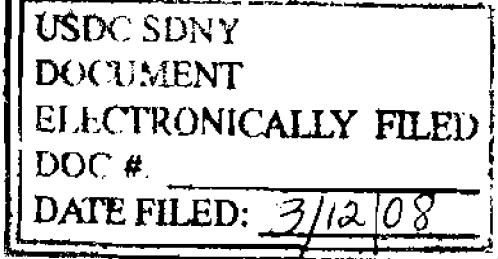

Donald Nowye
Assistant Attorney General
(212)416-8227

c: Luis Rosales
Plaintiff pro se
91A3067
Wende Correctional Facility
Wende Road, P.O. Box 1187
Alden, New York 14004-1187

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H.103



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
-----x
APL CO. PTE LTD and
AMERICAN PRESIDENT LINES, LTD.,

Plaintiffs,
- against -
BLUE WATER SHIPPING U.S. INC.,

Defendant.

-----x
05 Civ. 3454 (DFE)

This is an ECF case

MEMORANDUM AND ORDER

DOUGLAS F. EATON, United States Magistrate Judge.

I am responding to Mr. Hohenstein's letter dated March 11, 2008. My February 28 Opinion, at ¶106, cited my previous decision in *Union Carbide Corp. v. M/T ENCOUNTER*, 2004 WL 548457, *8 (S.D.N.Y. Mar. 18, 2004). I had forgotten that its use of the phrase "adjusted prime rate" was obsolete. Mr. Hohenstein's letter encloses a copy of the April 7, 2004 declaration of Union Carbide's attorney, and I now enclose a copy of my April 16, 2004 Amended Judgment in the *Union Carbide* case. I agreed with Union Carbide that the phrase "adjusted prime rate, compounded annually" should be read to mean the quarterly rates for underpayments shown in the Table of Interest Rates at Internal Revenue Service Ruling 2003-104, but averaged yearly and compounded annually (in that case, as of each March 31).

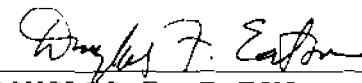
Mr. Hohenstein's letter encloses the current table of such quarterly interest rates, shown at Revenue Ruling 2007-68 and IRS Bulletin 2007-52, pages 1239-40. I conclude that Plaintiffs are entitled to pre-judgment interest as follows:

June 7, 2003 to June 30, 2004	4.5%
July 1, 2004 to June 30, 2005	5.0%
July 1, 2005 to June 30, 2006	6.75%
July 1, 2006 to June 30, 2007	8.0%
July 1, 2007 to Mar. 14, 2008	7.67%

The interest should be compounded annually as of June 30, 2004 and as of each subsequent June 30th.

I hereby waive my March 14 deadline for Plaintiffs to make the submissions pursuant to Paragraphs 107 and 108 of my February 28 Opinion. The pre-judgment interest will end as of March 14,

and Plaintiffs may make those submissions at their convenience.


DOUGLAS F. EATON
United States Magistrate Judge

Dated: New York, New York
March 11, 2008

Copies of this Memorandum and Order (and of my 4/16/04 Amended Judgement in the Union Carbide case) are being sent by fax and by electronic case filing to:

James H. Hohenstein, Esq. (also by fax to 212-385-9010fax)
Jean M. DelColliano, Esq.
HAIGHT GARDNER HOLLAND & KNIGHT
A Law Office of HOLLAND & KNIGHT LLP
195 Broadway
New York, NY 10017

David Monroe, Esq. (also by fax to 202-342-5219fax)
Galland, Kharasch, Greenberg, Fellman & Swirsky
Canal Square
1054 31st Street, NW
Washington DC 20007

Sandra Gale Behrle, Esq.
Cooper, Brown & Behrle, P.C.
331 Madison Avenue
New York, NY 10017

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
UNION CARBIDE CORPORATION,

Plaintiff,

96 Civ. 8193 (DFE)

- against -

AMENDED JUDGMENT

M/T "ENCOUNTER," her engines,
boilers, tackle, etc.,
CHEMBULK TRADING INC., and
M.T.M. SHIP MANAGEMENT PRIVATE LTD.,

Defendants.

-----x

DOUGLAS F. EATON, United States Magistrate Judge.

Having reviewed defendants' affirmation relating to pre-judgment interest calculation (Docket Item #42) and plaintiff's responding declaration (Docket Item #43), I agree with plaintiff as to the meaning of the phrase "adjusted prime rate" in my Opinion and Order dated March 18, 2004 at ¶41. On the other hand, ¶41 directed that the pre-judgment interest shall run from April 1, 1996, and I think it is fairest if the rate is averaged yearly and compounded as of each March 31. The resulting calculation is set forth in Docket Item #43 at ¶¶6-8; the pre-judgment interest through March 31, 2004 is \$278,792.19.

IT IS HEREBY ORDERED AND ADJUDGED:

That the plaintiff UNION CARBIDE CORPORATION recover of the defendants CHEMBULK TRADING INC. and M.T.M. SHIP MANAGEMENT PRIVATE LTD., the sum of \$348,972.02, plus pre-judgment interest from April 1, 1996 through March 31, 2004 in the amount of \$278,792.19 for a total judgment of \$627,764.21, together with costs to be taxed by the Clerk of the Court, with post-judgment interest thereon.

The Clerk is directed to enter Judgment accordingly.

Dated: New York, New York
April 16, 2004

DOUGLAS F. EATON
United States Magistrate Judge

(THIS COPY REQUIRES NO ACTION)